



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 7038-99

30 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters, Marine Corps dated 7 February 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:

1070

JAM3

07 FEB 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION
IN THE CASE OF [REDACTED]
[REDACTED] U.S. MARINE CORPS

1. We are asked to provide an opinion on Petitioner's request to remove from her Official Military Personnel File (OMPF) the nonjudicial punishment (NJP) she received on 13 November 1997.

2. We recommend that the requested relief be denied. Our analysis follows.

3. Background. On 13 November 1997, Petitioner was punished at NJP for being absent without leave, in violation of Article 86, Uniform Code of Military Justice (UCMJ). She was awarded reduction to E-2, and 30 days extra duties. On 18 November 1997, Petitioner appealed the punishment. On 23 December 1997, the appeal was denied. Petitioner now contends that the NJP is unjust based on matters previously raised at her NJP proceeding.

4. Analysis

a. Petitioner provides no evidence to support her contention that her NJP was unjust. The Report and Disposition of Offenses (NAVMC 118-12) that records the NJP is correct in form and suggests no irregularity in the proceeding itself. The punishment imposed was authorized based on the grade of the officer who imposed it, and a review of the record does not indicate that the NJP authority abused his discretion.

b. This petition is nothing more than Petitioner's request for a rehearing of the same facts raised during the NJP proceeding and NJP appeal. The salient facts were considered at the NJP and appeal, and deemed sufficient to support a finding of guilt. The interests of finality weigh heavily against reconsidering them now, and Petitioner provides no new evidence to indicate that the interest of fairness support her request.

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION
IN THE CASE OF ~~REDACTED~~
~~REDACTED~~ U.S. MARINE CORPS

5. Conclusion. Accordingly, for the reason noted, we recommend that the requested relief be denied.

M. W. Fisher, Jr.

M. W. FISHER, JR.

Head, Military Law Branch

Judge Advocate Division